

1 Rule 38. Appeals from Justice Courts.

2 Appeals from a judgment or order of a justice court are governed by Section 78-5-120 of the  
3 Utah Code and this Rule as follows:

4 (a) Upon filing a notice of appeal in the justice court pursuant to Subsection 78-5-120(1)  
5 concerning appeals from a conviction and sentencing or pleas held in abeyance:

6 (a)(1) the judgment of the justice court shall be vacated and any commitment recalled. The  
7 defendant will be restored to the same bail and/or conditions of release status as existed before  
8 entry of judgment, except that for good cause shown or a showing of material change in  
9 circumstances, the court may modify bail or conditions of release, and

10 (a)(2) the justice court shall, within twenty days, transmit to the district court, in the location  
11 nearest to and in the same county as the justice court, a certified copy of the notice of appeal, the  
12 docket, the information or waiver of information, the judgment and sentence, and other orders  
13 and papers filed in the case, and, where the appeal is filed pro se, the justice court shall mail a  
14 date- stamped copy of the notice of appeal to the prosecuting attorney, and

15 (a)(3) the prosecution shall thereafter go forward in the district court as if an information had  
16 originally been filed therein. The district court shall notify the parties and the defendant at the  
17 addresses listed on the notice of appeal, of the date set by the district court for arraignment in  
18 district court.

19 (b) Upon filing a notice of appeal pursuant to Subsection 78-5-120(3) or (4) concerning  
20 appeals from an order revoking probation, finding violation of a plea in abeyance, denying  
21 withdrawal of a plea, and appeals by the prosecution,

22 (b)(1) proceedings in and orders of the justice court shall be stayed and the defendant shall be  
23 restored to or remain on the same bail or conditions of release status as existed prior to the entry  
24 of the judgment, sentence or order appealed from, except that for good cause shown or a showing  
25 of material change in circumstances, the court may modify bail or conditions of release, and

26 (b)(2) the justice court shall, within twenty days, transmit to the district court, in the location  
27 nearest to and in the same county as the justice court, a certified copy of the notice of appeal, the  
28 docket, the information or waiver of information, the judgment and sentence, if any, the order  
29 appealed from, and other orders and papers filed in the case, and, where the appeal is filed pro se,  
30 the justice court shall mail a date-stamped copy of the notice of appeal to the prosecuting  
31 attorney, and

32        (b)(3) the district court shall conduct anew a hearing on the matter appealed, and

33        (b)(4) upon entering a decision, the district court shall remand the case to the justice court for  
34 disposition consistent with the district court's decision, unless the court disposes of the matter  
35 pursuant to Subsection 78-5-120(5). In the event the district court disposes of the case pursuant  
36 to Subsection 78-5-120(5), the clerk of the district court shall notify the justice court of that  
37 decision and the justice court shall vacate any judgment there.

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